

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

**IN RE: AME CHURCH EMPLOYEE
RETIREMENT FUND LITIGATION**

MDL Docket No. 1:22-md-03035-
STA-jay

ALL CASES

Honorable S. Thomas Anderson

**JOINT STATUS UPDATE IN ADVANCE OF
AUGUST 16 STATUS CONFERENCE**

At the initial status conference in this matter, the Court requested that the Parties provide a joint update on the status of litigation seven days before each status conference. [ECF No. 69]. In advance of the August 16, 2024 status conference, the Parties report as follows:

I. Procedural Overview Since the June 25, 2024 Status Conference

There are three pending motions. The first motion is a motion to compel nine depositions of Symetra witnesses that was filed by the AME Church Defendants [ECF No. 415]. The Court has referred this motion to the Magistrate [ECF No. 416]. This motion is fully briefed.

The second pending motion is a motion to compel three depositions of AME Church Defendant witnesses [ECF No. 432]. The court has referred this motion to the Magistrate [ECF No. 438]. This motion is fully briefed.

The third pending motion is Plaintiffs' Motion for Leave to File Second Amended Complaint. [ECF No. 440]. The motion is only opposed by Newport [ECF No. 465] and Eaton/FFG [ECF No. 464]. Plaintiffs' reply brief will be filed by August 14, 2024, and the Parties will be prepared to argue this motion at the status conference.

The Parties are thoroughly engaged in discovery, as detailed below. Despite their diligent efforts to complete depositions and discovery before the upcoming September 18 deadline, the Parties are still finding themselves unable to complete some of the depositions by that deadline due to scheduling conflicts for counsel and witnesses, scheduling issues relating to AMEC's Quadrennial Session of the General Conference in late August, and recent developments in the Jarrod Erwin bankruptcy, among other things. Plaintiffs' position is that they are not seeking an extension of any deadlines, but do seek the Court's permission to schedule several depositions after the close of discovery as noted below.

Newport and Symetra wish to discuss an extension of the schedule with the Court, given the number of depositions that remain unscheduled despite their good faith efforts to procure dates, as well as pending motions to compel various depositions, and Plaintiffs' motion to file a proposed second amended complaint, which have significant implications for the schedule. As discussed further below, among others, there are several AMEC witness depositions that need to be scheduled, three witnesses from Day and Night Solar, Rodney Brown, Jarrod and Ryan Erwin of Motorskill, and various 30(b)(6) depositions. Newport and Symetra's position is

that, in view of the number of depositions outstanding, and the additional depositions that may need to be scheduled pending the rulings on the motions to compel (as many as 12 depositions), it is not feasible to try to schedule all of them after the current close of fact discovery. Additionally, as discussed at the last Status Conference, if the Court allows Plaintiffs to file the proposed second amended complaint, it will be necessary to enter an amended scheduling order extending the existing deadlines. Newport and Symetra plan to file motions to dismiss the proposed second amended complaint, if it is entered. While certain discovery and depositions certainly can continue in parallel while motions to dismiss are pending, the Court's ruling on motions to dismiss and whether certain claims remain in the case would have a significant impact on discovery. Newport and Symetra seek to discuss these issues at the Status Conference.

II. Status of Discovery

Discovery commenced on September 9, 2022. [ECF No. 78, p. 2].

a. Written Discovery

Plaintiffs served discovery requests on most Parties the first day discovery commenced and served all Parties that made an appearance after that by the end of September.

Symetra served discovery requests on the AMEC Defendants in May of 2023, which the AMEC Defendants responded to in June of 2023. Symetra and AMEC are currently engaged in discussions regarding the completeness of AMEC's document productions in response to these requests. Symetra also served discovery requests on

Plaintiffs, Defendant Eaton, and Defendant Harris on June 30, 2023. Defendant Harris responded to Symetra's requests on July 28, 2023. Defendant Eaton served his responses on August 11, 2023, and Plaintiffs served their responses on August 31, 2023.

Newport served requests for production on Plaintiffs in May of 2023. Plaintiffs served their written responses and objections to those requests on June 21, 2023. Newport also served the AMEC Defendants with requests for production in May of 2023. The AMEC Defendants served their written responses and objections to those requests on July 20, 2023. Newport served additional requests for production on the AMEC Defendants on March 29, 2024. The AMEC Defendants served written responses and objections to those requests on May 1, 2024, but have not yet completed their production of responsive documents. Newport also served requests for production on Rodney Brown on April 19, 2024. As of the date of this update, Rodney Brown has produced certain documents in response to those requests and represented that certain other responsive documents have been provided to law enforcement. The Department of Justice has notified Mr. Brown's counsel that the FBI is working on producing copies of Mr. Brown's documents. Mr. Brown has not produced any emails, and Newport is in the process of conferring with Mr. Brown's new counsel regarding the production of responsive emails.

AMEC Defendants served written discovery requests to Jerome Harris on June 16, 2023; Harris served responses on July 24, 2023. Plaintiffs understand that additional documents possessed by Dr. Harris were seized as part of a related

criminal investigation. Plaintiffs have recovered these 852 documents from AMEC, which were produced by AMEC on October 19, 2023 (and are not included in the chart below). Plaintiffs also produced four boxes of documents that were produced in hard copy by the Motorskill defendants. On May 15, 2024, Defendant Financial Freedom Group, Inc. served Plaintiffs with its First Requests for Production of Documents. Plaintiffs timely responded on June 14, 2024.

On August 6, Symetra served a second set of interrogatories and a second request for production of documents on Plaintiffs.

The Parties have been producing documents, with the following having been produced to date:¹

Defendant	Date of Production	Number of Documents Produced
AME Church	4/29/2023	617
	2/23/2024	39
	3/25/2024	17
	4/15/2024	3
	4/30/2024	161
	5/01/2024	3
Robert Eaton	12/13/2022	711
	7/08/2024	1
	7/30/2024	504 ²
Dr. Jerome Harris	12/28/2022	21
	2/28/2023	4
	7/24/2023	5
	6/12/2024	1,122
Symetra Life Insurance	1/5/2023	889
	2/8/2023	5
	3/17/2023	51

¹ A small number of additional documents were produced under Rule 408 of the Federal Rules of Evidence and may not have been produced to all Parties in this litigation. Those documents are not identified in this chart.

² This reflects the number of pages in the production, rather than the unique number of files.

	4/12/2023	1,465
	6/29/2023	4,439
	11/17/2023	90
	3/18/2024	23
	4/10/2024	400
	4/18/2024	28
	7/02/2024	21
	7/24/2024	11
Newport Group	1/31/2023	667
	2/1/2023	5
	3/7/2023	5
	3/31/2023	1,157
	6/2/2023	6,009
	7/5/2023	5,472
	3/27/2024	1,633
Rodney Brown	4/25/2024	7
Plaintiffs ³	9/1/2022	884
	6/21/2023	217

While the Parties have been diligently engaged in written discovery, Symetra and Newport are concerned about the fact that numerous requested documents have still not been produced, including: (1) Rodney Brown's emails related to his audits; (2) the AMEC documents identified during the site inspection of the offices of the AMEC Department of Retirement Services and in the depositions of multiple AMEC witnesses, including, among others, documents from an electronic server at the Department and documents from Dr. Harris's former computer; (3) various meeting minutes and notes from the AMEC General Board, the Commission on Retirement Services, and the Department of Retirement Services; (4) certain annual reports from the Department of Retirement Services; and (5) the report from the investigation of

³ This reflects the cumulative number of pages, rather than unique documents, produced by all Plaintiffs.

the retirement plan conducted by Gregory Terrell. The parties have made some progress on this issue and are continuing to meet and confer; it is not yet clear whether a motion to compel will be necessary.

b. Third-Party Discovery

Plaintiffs have also engaged in discovery of third parties and have sent subpoenas to the following individuals/entities:

Subpoenaed Party	Date of Service	General Documents Sought	Number of Documents Produced
Dr. Richard Allen Lewis	12/7/2022	documents related to AME's finances	0
Gregory Terrell & Company	12/8/2022	documents related to audit of AME's retirement fund after Dr. Harris's retirement	0
Day & Night Solar	12/8/2022	documents related to investments and transactions with AME's retirement fund	24
Hoskins & Company	12/8/2022	documents related to audit of AME's retirement fund after Dr. Harris's retirement	0
Deutsche Bank Securities	3/27/2023	bank account records related to entities controlled by Dr. Harris and/or Robert Eaton	81
J.P. Morgan Securities, LLC	5/30/2023	bank account records related to entities controlled by Dr. Harris and/or Robert Eaton	1,214 ⁴
Regions Bank	3/7/2023	bank account records related to entities controlled by Dr. Harris and/or Robert Eaton	765

⁴ This refers to the number of pages in the production, rather than the unique number of files.

Truist Bank	3/10/2023	bank account records related to entities controlled by Dr. Harris and/or Robert Eaton	827
UBS Financial	3/9/2023	bank account records related to entities controlled by Dr. Harris and/or Robert Eaton and/or Motorskill entities	0
CBiz, Inc.	May 2, 2023	accounting and corporate records related to entities controlled by Dr. Harris and/or Robert Eaton	377

On August 6, Symetra also served three third-parties with subpoenas for the production of documents. Those three parties are Gregory Terrell, Connie Brown, and Ryan Erwin. The Parties are evaluating whether to send any additional subpoenas to any of these third-parties or any new third-parties.

c. Depositions

The Court entered an Order Establishing Guidelines for Depositions [ECF No. 343] on February 28, 2024. The Parties have complied with that Order but, because of the significant number of depositions and the numerous parties and counsel involved, the Parties have had to accommodate multiple scheduling issues for counsel and witnesses and have been unable to schedule depositions wholly consistently with the plan approved by the Court. [ECF No. 343, ¶ 4]. There have also been several depositions that the Parties have not been able to complete in one day and the Parties are working together to schedule the conclusion of those depositions. There also remain several additional depositions to be scheduled, such as Rule 30(b)(6) depositions of several of the Parties, as well as multiple AMEC witnesses, Rodney

Brown, Jarrod Erwin, certain Day & Night Solar witnesses, and third-party witnesses, and the Parties are working together to schedule those. Due to the Parties' respective scheduling conflicts for the remaining depositions that need to still be scheduled, along with the depositions currently in dispute and subject to motions to compel, the Parties would like to discuss a potential extension of the schedule or the Court's permission to schedule certain depositions after the close of discovery, including the completion of Symetra witness Bob Follette and a Rule 30(b)(6) deposition of Symetra. If the Court permits it, Plaintiffs intend to take those depositions in late September or October at a date mutually agreed upon by the parties and witnesses.

The Parties have taken thirty depositions so far, with several more scheduled in late August and in September. All of the Plaintiffs will have been deposed before this status conference except one that the Parties are in the process of rescheduling. Attached as **Exhibit A** to this report is a chart showing the status of depositions taken and scheduled. There are also a number of depositions that have not yet been scheduled and are not reflected in the chart.

To summarize, the Parties first deposed Christopher Harris, Dr. Jerome Harris's son and a longtime employee of the AMEC Retirement Department, on January 29, 2024 in Memphis, TN. The Parties then conducted an initial Rule 30(b)(6) deposition of AMEC on February 7, 2024 in Nashville, TN, focused on corporate structure and document retention. On February 7, 2024, AMEC designated a second witness on the Parties' initial 30(b)(6) topics and the deposition was

continued to February 21, 2024. In between these two dates, the Parties deposed Gloria Peterson on February 9, 2024 in Huntsville, AL. Ms. Peterson was Dr. Jerome Harris's executive assistant from 2008 through his retirement in 2021. The Parties also deposed three AMEC bishops; James Davis (on March 5, 2024), Samuel Green (on March 21, 2024), and Clement Fugh (on March 22, 2024), each in Atlanta, GA. Symetra and Newport contend that Bishop Davis's deposition requires additional time to complete, and AMEC has agreed to make him available but the parties have not yet been able to schedule a date.

On April 3, and 4, 2024, the Parties first deposed two Newport employees, John Combes and David Fiszer respectively, in Chicago, IL. The Parties deposed Symetra employee Jared Crapson on April 9, 2024. The Parties then deposed three Plaintiffs, Revs. Reuben Boyd and Derrell Wade on April 17 and 18, respectively, in Richmond, Va, and Rev. Diane Conley on April 19 in Charlotte, NC. The Parties next took the depositions of Irven Wright, a longtime employee of the AMEC Department of Retirement Services and of Dr. James Miller, the current executive director of the AMEC Department of Retirement Services. Those depositions occurred on April 23 and 24, respectively, in Memphis. Dr. Miller's deposition requires additional time to complete, which the Parties agreed would be completed remotely on a later date with a three hour time limitation, but the Parties have not yet scheduled that date.

Just before the May 3 status conference, the Parties deposed Dr. Richard Allen Lewis, the long-time and now retired CFO of the AME Church, and Jim Daniel, a former Symetra employee on May 1 and 2, 2024, respectively, in Nashville. On May

13, 2024, Plaintiff Jackson was deposed in Orlando, Florida. The Parties then deposed Mark Yahoudy, a long-time Newport employee in Chicago on May 23, 2024, and began the deposition of Defendant Rodney Brown on May 24, but recessed it shortly after it began to allow Mr. Brown the opportunity to engage counsel. The Parties are in contact with Mr. Brown's new counsel about scheduling a time to reconvene Mr. Brown's deposition, but they have not yet been able to schedule a date, given that Mr. Brown's counsel is getting up to speed on the case and has raised concerns about continuing his deposition before retrieving the documents that Mr. Brown produced to law enforcement. The following day, Plaintiffs King and Pearce Ewing were both deposed in Jacksonville, Florida. Plaintiff Alexander was then deposed on May 28, 2024 in Washington, D.C. The Parties then deposed former Symetra employee Scott Bartholomaeus in Indio, California on May 29, 2024 as well as former Symetra employees Bob Follette and Kathy Hastings on June 5 and 6, respectively, in Seattle, Washington. Mr. Follette's deposition was not able to be completed on June 5, and the Parties agreed to coordinate availability and reconvene. Plaintiffs Matthew Ewing and Elder Russ were then deposed in Pensacola, Florida on June 11, 2024. Next, the Parties deposed longtime Newport employee Dennis Kass in Chicago on June 13, 2024. The Parties also took the Rule 30(b)(6) deposition of Defendant Financial Freedom Group, and a deposition of Defendant Bob Eaton over two days in Nashville, June 25 and July 2, 2024.

The Parties have multiple depositions remaining to complete. They are working together to complete these depositions as expeditiously as possible as

detailed in Exhibit A. Newport and Symetra understand that a significant issue with scheduling the AMEC depositions is the upcoming Quadrennial Session of the General Conference in late August. Symetra also served subpoenas on August 6 for the depositions of four non-parties (Gregory Terrell & Company, Gregory Terrell, Connie Brown, and Ryan Erwin) and for a Rule 30(b)(6) deposition of Financial Freedom Funds, LLC. The Parties will meet and confer to schedule those depositions at mutually agreeable times after Symetra obtains service on each of those parties. If the Court grants any additional depositions related to the pending motions to compel three AME witnesses and nine Symetra witnesses, the Parties will work cooperatively to schedule those as soon as possible. If the Court allows Plaintiffs to amend their Complaint, additional depositions may need to be taken of newly added parties, and Newport and Symetra believe depositions may need to be reopened with respect to the new allegations and claims in the proposed amended complaint.

III. Erwin Bankruptcy Proceedings

Plaintiffs and AMEC remain engaged in adversary proceedings against Jarrod Erwin, although AMEC has recently reached a resolution of its claims against Erwin. Plaintiffs' complaint focuses on the dischargeability of debt and is scheduled for trial in October 2024. AMEC has asserted claims against Jarrod Erwin in addition to asserting the dischargeability of debt.

On June 6, 2024, Symetra filed an amended motion for relief from the bankruptcy stay to seek production by Jarrod Erwin of the Motorskill documents that may be in his possession, custody, or control. A hearing occurred on the Motion on

July 9, 2024 and the Court ordered a deposition of Erwin, to take place under the Federal Rules of Civil Procedure and the Court's discovery protocol entered in this case. Symetra is in the process of coordinating that deposition to allow the Parties from this proceeding to participate. To date, Mr. Erwin's counsel has not yet provided available deposition dates.

A hearing is currently scheduled for AMEC's motion to approve its compromise with Erwin for August 14, 2024. Symetra filed an objection to this motion.

IV. Mediation Efforts

As discussed at earlier status conferences, Plaintiffs, AME Church, the Eaton Defendants, Newport, Symetra, and Dr. Harris agreed to engage in an early mediation with the Hon. Justice Janice M. Holder (Ret.). That mediation occurred on February 6, 2023. Two additional mediations occurred between Plaintiffs and the AMEC Defendants with the Hon. Justice Janice M. Holder (Ret.), on May 4, 2023 and on July 30, 2024. While the Parties do not have any additional mediation sessions scheduled at this time, Plaintiffs believe that the deposition testimony so far has clarified the issues in the case to the extent that another mediation session in the near future could be productive.

V. Proposed Schedule for Future Status Conferences

The Court has already scheduled the next two status conferences for October 16, 2024 and December 19, 2024, respectively. The Parties propose that the Court continue scheduling future status conferences approximately every sixty days, with a remote attendance option (either by telephone or video-conferencing) for Parties

that are unable or may not need to attend each status conference in person so as to limit the costs and burdens associated with attending each conference. The Parties propose the next status conference be scheduled now, to occur during the week of February 17, 2025.

VI. Conclusion

The Parties appreciate the Court's diligent management of this matter and welcome the opportunity to address any additional matters the Court would like to discuss at the August 16, 2024 status conference.

Respectfully submitted this the 9th day of August 2024.

/s/ Matthew E. Lee

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